

TR PTY LTD
ABN 99 005 499 721
GENERAL TERMS OF SALE

1. GENERAL

- 1.1. Orders are accepted and Equipment and services sold by TR Pty Ltd (“**TR**”) on these terms and conditions (“**Terms**”) and any other terms and conditions contained in the Sale Agreement (together the “**Sale Documents**”). No variation or modification of, or substitution for, the Sale Documents shall be binding unless expressly accepted by TR in writing. The Sale Documents apply despite any other terms and conditions that are proffered by the Purchaser named in the Sale Agreement.
- 1.2. The word “Equipment” in the Sale Agreement shall be taken to mean any equipment as referred to in the Sale Agreement or the services referred to in the Sale Agreement and where applicable all equipment, articles, accessories, documents (including operating manuals) or things supplied with the Equipment or the services. Further, Equipment includes reference to any individual item as well as to a number of Equipment whether or not included in a single quote or invoice.
- 1.3. The Sale Documents shall be governed in all respects by the laws of Victoria and the jurisdiction of Victoria shall apply to any dispute arising out of the Sale Document.
- 1.4. Unless otherwise expressly stated all Equipment sold is ex-
rental.
- 2. ORDERS**
An order placed whether orally, by facsimile, by telephone, by e-mail, by

mail or otherwise can not be cancelled or altered other than with the written consent of TR. The Purchaser acknowledges that in placing the order with TR it has entered into a legally binding contract with TR subject to these Terms.

3. PRICES/EXCHANGE FLUCTUATIONS

All prices quoted by TR are quoted excluding GST (at the prevailing statutory rate) tax, duty and freight and packaging costs and all are subject to adjustment if there is any adverse exchange rate fluctuation.

4. VALIDITY

Subject to clause 3 any quotation given for the sale of Equipment is valid for a period of thirty (30) days from its date or such other period (if any) stated in the quotation.

5. EX-STOCK EQUIPMENT

Any Equipment quoted "ex-stock" is subject to availability and prior sale or rental.

6. DELIVERY & INSURANCE

- 6.1. Equipment sold is available for collection at the location specified in the Sale Agreement.
- 6.2. At the Purchaser’s request TR will arrange packing and delivery of the Equipment to the Purchaser with packaging and delivery charges being invoiced to the Purchaser.
- 6.3. Unless otherwise agreed by TR in writing, the Purchaser shall collect the Equipment from the location specified in the Sale Agreement within 7 days of TR notifying the Purchaser that the Equipment is ready for collection.

- 6.4. If the Purchaser fails to take delivery in accordance with this condition the Purchaser shall pay TR for all storage and handling charges and other consequential loss or damage arising from that delay.
- 6.5. TR is not responsible to the Purchaser for any damage to or loss of the Equipment whilst being delivered to the Purchaser. The Purchaser acknowledges that any Equipment delivered by TR is not covered by insurance unless otherwise agreed in writing with TR. If the Purchaser requires insurance cover to be effected by TR over the Equipment, then all details required by TR must be supplied with the Order and the charges for such insurance borne by the Purchaser.
- 6.6. If there is any defect in the Equipment upon delivery TR is to be notified by the Purchaser within 7 days otherwise the Equipment will be deemed to have been delivered in good order and condition and in full compliance of these Terms.
- 7. WARRANTY**
- 7.1. To the maximum extent permitted by law, where the Equipment is sold ex-
rental, the warranty applying to it in respect of a fault with the Equipment will be for a period of 60 days from the date of delivery unless otherwise stated in the Sale Agreement.
- 7.2. To the maximum extent permitted by law, where the Equipment is sold new, the warranty and period of warranty in

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respect of any fault in the Equipment will be the warranty and period of warranty permitted by the manufacturer of the Equipment unless otherwise specified in the Sale Agreement.

7.3. The warranties in clauses 7.1 and 7.2 do not apply:

- (a) in respect of vacuum tubes, lamps, fuses, test leads and batteries or copyrighted or licensed works in respect of the Equipment or any part of the Equipment.
- (b) where the Purchaser is in breach of any of the Sale Documents.
- (c) where any fault of the Equipment has been caused by misuse, neglect, accident or abnormal conditions of operation or use contrary to TR's or the manufacturer's recommendations or operating instructions.
- (d) where the Equipment was the subject of a rental agreement with the Purchaser or a related entity to the Purchaser.

8. LIABILITY

- 8.1. Subject to clause 7, to the maximum extent permitted by law, TR makes no warranties or representation and the Purchaser releases TR from all liability for any loss, claim, damage or injury suffered in connection with the supply of the Equipment.
- 8.2. TR's liability to the Purchaser in respect of any non-excludable warranty or condition shall be limited to the maximum extent possible to either of the following (as TR may decide):

- (a) the replacement of the Equipment or the supply of equivalent Equipment;
- (b) the repair of the Equipment;
- (c) the payment of the cost of replacing the Equipment or of acquiring equivalent Equipment; or
- (d) the payment of the cost of having the Equipment repaired.

8.3. Unless otherwise stated in the Sale Documents all express and implied warranties, guarantees and conditions under statute, general law or trade usage, as to merchantability, description, quality, suitability or fitness of the Equipment for any purpose, or as to design, assembly, installation, materials, workmanship or otherwise are expressly excluded.

8.4. Subject to any non-excludable warranty or condition and to the maximum extent permitted by law, TR maximum aggregate liability for all claims relating to the Sale Documents or their subject matter, whether in contract, tort (including negligence), in equity, under statute, under an indemnity, based on fundamental breach or breach of a fundamental term or on any other basis, is limited to an amount equal to the Purchase Price paid by the Purchaser under the Sale Documents.

8.5. TR shall not be liable to the Purchaser in any circumstance for indirect, economic or consequential loss suffered by the Purchaser

8.6. The Purchaser acknowledges that it has not relied upon any statement or representation by TR in respect of the purpose for which the Purchaser desires to use the Equipment and that TR is not responsible or liable for any failure or unsuitability of the Equipment to perform the purposes required by the Purchaser.

9. THE COST OF REPAIRS

Where the warranty in clause 7 does not apply, any repairs requested by the Purchaser will be charged and invoiced to and paid for by the Purchaser.

10. DEFAULT

10.1. If the Purchaser:

- (a) defaults in making any payment; or
- (b) fails to comply with the Sale Documents; or
- (c) repudiates any Sale Document or any contract it has with TR; or
- (d) dies; or
- (e) stops payment; or
- (f) calls a meeting of creditors, becomes
- (g) insolvent or subject to the bankruptcy laws; or
- (h) being a company, enters into any scheme of arrangement with creditors, or receivers and managers or administrators are appointed or has any winding up petition presented against it.
- (i) TR may at its sole discretion and option at any time prior to payment in full for the Equipment and for any other Equipment supplied by TR for which payment is outstanding:

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- a. suspend or cancel the Sale Documents;
- b. require payment in cash before delivery of the Equipment or services (irrespective of any terms of payment previously specified);
- c. take over or repossess the Equipment and dispose of the Equipment without prejudice to any claim TR may have for damages for any loss resulting from any re sale or disposal of the Equipment;
- d. exercise all rights to the Equipment as if it were the owner.

This clause shall apply notwithstanding any waiver by TR of any default or failure by the Purchaser to comply with these Terms and without prejudice to its other rights under the Sale Agreement.

- 10.2. If the Purchaser is in default of the Sale Documents, the Purchaser consents to TR its servants and agents entering the Purchaser's premises, or any other premises where the Equipment is located, using such force as is necessary in order to repossess the Equipment. The Purchaser must provide TR with all reasonable assistance in order to locate and collect the Equipment. If the Equipment is not available for collection at the nominated time

and or place the Purchaser will be liable for any additional costs TR incur. TR will not be liable for any damage to property caused by any person in collecting the Equipment.

11. PAYMENT

Payment terms are strictly thirty (30) days from date of invoice unless otherwise stated in the Sale Agreement. If any amount is due and unpaid, the Purchaser agrees to pay interest on the overdue amount at the rate of 7% higher than the Reserve Bank of Australia's 90 day bill rate calculated daily until payment in full is received and the Equipment has been returned. The Purchaser is liable for all additional costs TR may incur, including legal, administrative and collection costs to recover unpaid amounts.

12. RETENTION OF TITLE

At all times the property in the Equipment remains with TR (irrespective of delivery of the Equipment to the Purchaser) until the Purchaser has paid the full invoiced price and any other payments due to TR in respect of the Equipment arising out of the Sale Documents.

13. SECURITY INTEREST

13.1. Expressions used in this clause 13 and in the Personal Property Securities Act 2009 (Cth) ("PPSA") have the same meanings as when used in the PPSA.

13.2. If TR already has a prior registered security interest in the Equipment supplied, that security interest continues in this Equipment. The Purchaser acknowledges that the

Sale Documents create a security interest in favour of TR for the purposes of the PPSA, and:

- (a) TR may register this security interest with the Registrar of Personal Property Securities pursuant to the PPSA in order to perfect its security interest;
 - (b) the Purchaser agrees the security interest granted to TR pursuant to the Sale Documents may be a purchase money security interest for the purpose of the PPSA;
 - (c) if requested, the Purchaser must pay or reimburse the costs of registering the security interest, and provide TR with all assistance reasonably required in order for TR to register the security interest; and
 - (d) for the purpose of section 115 of the PPSA, the following sections of the Act do not apply to this the Sale Document: sections 95, 118, 121(4), 125, 130, 132(3)(d), 132(4) and 135.
- 13.3. The Purchaser authorises TR to search the Personal Property Securities Register at any time for any information about the Purchaser.
- 13.4. The Purchaser waives its right to receive a copy of the verification statement confirming

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registration of a financing statement or financing change statement relating to any security interest granted under the Sale Documents in relation to commercial property.

14. PURCHASER COVENANTS

The Purchaser agrees with TR that until it has paid the full invoices price and any other payments due to TR in respect of the Equipment:

- (a) It has not right, title, estate or interest in the Equipment;
- (b) it will not remove any sticker or other identification from the Equipment giving notice of TR ownership of the Equipment;
- (c) purport to grant any encumbrance over or in connection with the Equipment or otherwise purport to offer or use the Equipment as security. For the purpose of these Conditions, encumbrance means any mortgage, lien, charge, bill of sale, option, title retention, pledge, claim, restriction, condition, overriding interest, security interest pursuant to the PPSA or other encumbrance.
- (d) It must not 'on-hire' the Equipment unless it receives the prior written consent of TR. TRs consent may be withheld in its absolute discretion.

15. SPECIAL LICENCE

In the event that any item of Equipment or component of an item of Equipment contains a copyright work or other thing

to which intellectual property rights subsist, usage thereof shall be by way of licence only upon the terms and conditions of the owners licence. The Purchaser shall not do or cause or permit to be done anything in contravention of such licence and subject to all limitations and obligations imposed by such licence.

16. RENTAL EQUIPMENT

Any quotation or any Sale Document for the Equipment which is currently or was previously on hire to the Purchaser shall be additionally subject to the conditions that all of the terms of the rental agreement are complied with. Rent will continue to accrue up to the date of payment of the sale invoice. Payment shall be applied first to rent and second to sale price.

17. SUNDRY

To the extent of any inconsistency between the Sale Agreement and these Terms, the Sale Agreement prevails.